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IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION

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AS AMERICAN AS DOUGHNUTS, INC.,

Plaintiff,

v.

MICHAEL J.T. PATTON, d.b.a. SPUDOS  
DONUTS & MORE, et al.,

Defendants.

**MEMORANDUM DECISION  
AND ORDER**

Case No. 2:10-cv-01138-CW

Judge Clark Waddoups

Before the court are As American As Doughnuts, Inc. and Douglas E. Bagley's (hereinafter referred to collectively as "As American As Doughnuts") motion to dismiss MP-OTHA Corporation's ("MP-OTHA") supplemental complaint (Dkt. No. 69), As American As Doughnuts' motion to dismiss the claims against Douglas E. Bagley (Dkt. No. 71), and MP-OTHA's motion to dismiss the first and second counterclaims plead in As American As Doughnuts' answer to MP-OTHA's supplemental complaint (Dkt. No. 81). The court heard oral arguments on these motions on July 10, 2012. Timothy Dudley appeared on behalf of As American As Doughnuts and Alan Edwards and Richard Nordgren appeared on behalf of MP-OTHA.

For the reasons set forth on the record, the court DENIES As American As Doughnuts' motion to dismiss MP-OTHA Corporation's ("MP-OTHA") supplemental complaint (Dkt. No. 69), DENIES As American As Doughnuts' motion to dismiss the claims against Douglas E. Bagley (Dkt. No. 71), and GRANTS MP-OTHA's motion to dismiss the first and second

counterclaims plead in As American As Doughnuts' answer to MP-OTHA's supplemental complaint (Dkt. No. 81). The court also gives As American As Doughnuts leave to file an amended counterclaim, which should be filed on or before August 6, 2012.

SO ORDERED this 10th day of July, 2012.

BY THE COURT:



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Clark Waddoups  
United States District Judge